

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION**

WAKEEL ABDUL-SABUR,)	CASE NO. 7:18CV00367
)	
Petitioner,)	
v.)	MEMORANDUM OPINION
)	
STATE OF VIRGINIA,)	
)	By: Hon. Glen E. Conrad
)	Senior United States District Judge
Respondent.)	

Wakeel Abdul-Sabur, a Virginia inmate proceeding pro se, filed this pleading that he titled as a petition for a writ of habeas corpus under 28 U.S.C. § 2241. After review of the record, the court concludes that the petition must be construed and treated as a petition under 28 U.S.C. § 2254 and be dismissed as successive.

Abdul-Sabur challenges the validity of his confinement under the April 1999 judgment of the Circuit Court for Albemarle County convicting him of credit card theft and forgery and sentencing him to 25 years in prison. Abdul-Sabur argues that he should now be resentenced because the jury was not informed about Virginia's abolishment of parole. Because he thus claims that the state court sentence is unlawful, his petition must be addressed as a petition for a writ of habeas corpus under 28 U.S.C. § 2254. See In re Wright, 826 F.3d 774, 779 (4th Cir. 2016) (holding that "regardless of how they are styled, federal habeas petitions of prisoners who are 'in custody pursuant to the judgment of a State court'" must be treated as § 2254 petitions, subject to the successive petition bar in 28 U.S.C. § 2244(b)).

Abdul-Sabur previously filed a § 2254 petition concerning the same convictions, and the court addressed and dismissed it as untimely filed. See Abdul-Sabur v. Commonwealth of Virginia, Case No. 7:18CV00230 (W.D. Va. Apr. 17, 2008). A federal district court may

consider a second or successive § 2254 petition only if petitioner secures specific certification from the court of appeals that the claims in the petition meet certain criteria. 28 U.S.C. § 2244(b)(3). Abdul-Sabur has not obtained the required certification. Therefore, the court will dismiss this petition without prejudice as successive. An appropriate order will enter this day.

The Clerk is directed to send copies of this memorandum opinion and accompanying order to petitioner.

ENTER: This 30th day of July, 2018.



Senior United States District Judge